

### REMARKS

In response to the Final Office Action mailed May 5, 2005, Applicant submits a request for continued examination.

#### **Interview Summary**

Applicant acknowledges a telephone interview on August 16, 2005 in which the advisory action issued on August 11, 2005 was discussed.

During the interview, Applicant urged reconsideration of the statement that addition of the adjective "separated" in the proposed claim amendments would change the scope of the claims.

Applicant pointed out that the term "separated" was introduced only provide a way to label the header prior to separation and the header after separation. Applicant stated that a "separated" header was structurally no different from a header still attached to the payload. With this being the case, there could be no change in the claim scope.

The Examiner consulted the supervisory examiner on this point and telephoned to relay the news that the supervisory examiner disagreed.

Rather than waste resources disputing the point, and in an effort to expedite prosecution of this application, Applicant has elected to file this RCE and to remove the adjective that spawned this controversy.

#### **Claim amendments**

The advisory action that issued on August 11, 2005 indicated that the proposed amendments had not been entered. Accordingly, the revision marks shown herein are made relative to the claims as they were pending following the response filed on December 22, 2004.

**Claim rejections under §103(a)**

The examiner has rejected claim 1 under 35 U.S.C. §103(a) as being unpatentable over *Partridge* (US 6,160,811) in view of one or more of *Kudo* (US 5,278,830) and *Locklear* (US 6,252,878).

Claim 1 recites a distribution processor for distributing separated header data among the data processing processors. The distribution processor distributes the header data at least in part on the basis of a priority specified by the header data and the workload of the data processing processors.

The Examiner appears to have relied on *Kudo* and *Locklear* for teaching a distribution processor that “distributes the separated header data at least in part on the basis of a priority specified by the separated header data and the workload of the data processing processors.”

*Kudo* describes distributing packets based on the priority of a packet. (col. 2, lines 32-41). More specifically, *Kudo*'s system receives a packet, identifies the priority data in the header of the packet, and instructs the packet distributor to distribute the *entire* packet to a data buffer designated by the priority data. (col. 2, lines 60-69). Therefore, *Kudo* distributes *complete packets* (header *and* payload) to the queues. *Kudo* does not disclose or suggest separating the packets into header data and useful data and distributing the *separated* header data at least in part on the basis of a priority specified by the header data and the workload of the data processing processors as recited in claim 1.

*Locklear* describes a routing process that assigns the routing during an initialization process. *Locklear* selects the route processor based on loading characteristics and stores the assignment to be used in future communications (col. 5, lines 5-13). Since, the routing of communications is based on the stored assignment, *Locklear* fails to describe or suggest a distribution processor that distributes header data, much less *separated* header data, at least in part on the basis of a priority specified by the separated header data and the workload of the data processing processors as recited in claim 1.

None of *Partridge*, *Kudos* and *Locklear* disclose or suggest a distribution processor that “distributes the separated header data at least in part on the basis of a priority specified by the separated header data and the workload of the data processing processors” as recited in claim 1. Therefore, even if *Partridge*'s system were modified based on the teachings of *Kudos* and *Locklear* as proposed by the examiner, the result would still fail to meet the limitations of claim 1.

The dependent claims 5-20 are allowable for at least the reasons set forth above for claim 1.

#### Summary

It is believed that all of the rejections have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: August 17, 2005



Faustino A. Lichauco  
Reg. No. 41,942

Fish & Richardson P.C.  
225 Franklin Street  
Boston, MA 02110  
Telephone: (617) 542-5070  
Facsimile: (617) 542-8906  
21149677.doc